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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,096	09/08/2003	Raymond L. Jesewitz	SES-100R	9962

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EXAMINER

WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,096

Applicant(s)

JESEWITZ, RAYMOND

Examiner

Andrew Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/9/04
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred content for the specification of a utility application. These guidelines are suggested for the applicant's use. Reference numbers that describe elements of the figures are generally used in the Detailed Description section, not in the Brief Description section.

- (a) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (b) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (c) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the seat being elevationally adjustable must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 3-5, 7, and 12 are objected to because of the following informalities. The claims recite the limitation "the floor". There is insufficient antecedent basis for these limitations in the claim. For examination it will be assume that this refers to the floor shown in the figures. A positive recitation of the element is required. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8, 9, and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 8 recites the limitations "the sides of the center console" in line 1 and "the sides of the boat" in lines 1-2. There is insufficient antecedent basis for these limitations

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in the claim. A center console can have numerous sides, such as top bottom, left, right, front, and back. There may be other sides beside the basic six already listed. The specification does not describe which sides of the console this recitation refers to. The drawings do not clarify the recitation. Similarly, there may be numerous "sides" of a boat, for example: port side outside the gunwale, port side inside the gunwale, starboard side outside the gunwale, starboard side inside the gunwale, aft side outside the transom, aft side inside the transom, deck topside, deck bottom side, etc. The specification and drawings do not clarify which sides of the boat are being referred to in the claim. The recitations of "the sides" render the claim indefinite because the exact scope of the recitation, and therefore the claim, cannot be determined.

7. Claims 8, 11, and 12 have similar indefinite recitations. Claims 11 and 12 recite "the port and starboard sides of the boat". This does not overcome the indefiniteness described above for the reason that there can be numerous facets of a boat that can be termed "port side" or "starboard side". Claim 13 depends from claim 12.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagen (US 6,427,616) in view of Davidson et al. (US 6,230,648). Hagen shows a waterski boat with a v-drive (column 3, lines 56-60). The boat has a console with

steering wheel and a drivers seat located sternward of the console. The console is not a center console. Hagen is primarily concerned with a ballast system and does not place any criticality on the hull design or deck layout of the boat. Hagen expressly teaches that any type, size, and configuration of hull and boat may be utilized with the ballast system. Center consoles are well known in the art. Davidson shows a motor boat that can be used for towing a skier via ski bar (48). Davidson shows a center console with steering wheel and seat behind the console. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hagen by locating the console and seat centrally instead of off to one side. The motivation would be to provide the driver with the visibility afforded by the center console.

10. Claim 7, Hagen teaches that the floor plan is open as is well known in ski boats. Thus the floor is substantially free of obstacles such as bumps or raises.

11. Claim 10, Hagen shows water-fillable ballast tanks.

12. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagen in view of Davidson as applied to claim 1 above, and further in view of Dick, Jr. (US 5,619,949). Hagen in view of Davidson does not show an adjustable seat and does not disclose specific seta heights. Dick shows a seat for boats that comprises three height adjustment settings (figures 5-7). Dick teaches numerous advantages of his seat, including comfort and safety (columns 1-2). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to further

modify Hagen by providing the adjustable seat shown by Dick. The motivation would be to provide safety and comfort for the driver of the boat.

13. Dick does not disclose specific heights of the seat above the floor. However, it can be seen from figures 5-7 of Dick that the seat extends from the deck to the upper portion of the user's back. At least some portion of the seat is 25-35 inches from the floor.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagen in view of Davidson as applied to claim 1 above, and further in view of Larson et al. (US 6,044,788). Hagen shows a tower above the console, but does not show a wakeboard tower. Larson shows that a tower on a ski boat can be used to hold a wakeboard and is therefore a wakeboard tower. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Hagen by providing means for holding a wakeboard on the tower. The motivation would be to provide storage for wakeboards.

15. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 5,108,321). Hagen in view of Davidson does not teach the distance between a side of the console and a side of the boat. Nelson shows a motor boat with a center console with steering wheel and seat behind the console. Nelson shows a space between the outermost side transverse sides of the console and the gunwale that is proportionally smaller than that shown by Davidson. It is within the range of knowledge of the skilled artisan to make the walking space around the console as large or as small as desired. Using Davidson and Nelson as a starting point, a space of between 12 and

18 inches would be within the range of routine experimentation. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Hagen by providing a 12 to 18 inch space between a side wall of the console and a side wall of the boat. The motivation would be to optimize design parameters such as size and weight of the boat and useable deck space.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hagen (US 6,427,616) in view of Davidson et al. (US 6,230,648), Larson et al. (US 6,044,788), and Nelson (US 5,108,321). Hagen shows the boat with V-drive, console, steering wheel, seat and tower. Davidson shows the center console. Larson shows the tower with integrated wakeboard rack. Nelson shows a smaller space between the console and gunwales. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hagen by: locating the console in the center, providing the wakeboard rack on the tower, and making the space between the console and gunwales between 12 and 20 inches. The motivations are the same as described above.

17. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagen (US 6,427,616) in view of Davidson et al. (US 6,230,648), Larson et al. (US 6,044,788), Nelson (US 5,108,321), and Dick, Jr. (US 5,619,949). Hagen shows the boat with V-drive, console, steering wheel, seat and tower. Davidson shows the center console. Larson shows the tower with integrated wakeboard rack. Nelson shows a smaller space between the console and gunwales. Dick shows the adjustable seat. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify Hagen by: locating the console in the center, providing the wakeboard rack on the tower, making the space between the console and gunwales between 12 and 20 inches, and providing the adjustable seat at least 25 inches from the floor. The motivations are the same as described above.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pastor et al. shows a center console boat with space between the console and the gunwales and teaches that the space can be as large or small as desired.

19. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright
Patent Examiner
Art Unit 3617

AW 5/17/04